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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/882,845	06/15/2001	Doug Grumann	10002695-1	8777

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HEWLETT-PACKARD COMPANY  
Intellectual Property Administration  
P.O. Box 272400  
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EXAMINER
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TRUONG, LECHI

ART UNIT	PAPER NUMBER
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2126

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DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/882,845

Applicant(s)

GRUMANN, DOUG

Examiner

LeChi Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-26 are presented for examination.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumarot et al (US. Patent 6,059,842).

3. **As to claim 1**, Dumarot teaches the invention substantially as claimed including:  
electronically deriving relationships (the optimizer contains rules 330, 341, 351 that it uses to makes such optimizations 330,340 and recommendations 350. For example, If A1=yes, and S1=200 MHz, or Mi=90%, then make suggestion and change the graphic card settings that control “synchronization on vertical refresh”, col 7, ln 25-35/ comparing actual system/ application setting with recommend setting, col 7,ln 5-16), over time (changes to system and application configurations at different points in time, col 7, ln 10-16/ at specific increments of time, col 5, ln 10-17), monitored variable/ performance (dynamically monitoring system behavior an performance, col 3, ln 16-22/ the optimizer 136 monitors system 12 behavior/ col 5, ln 47-55/ optimizer 136 gathers relevant system information/ relevant application information, col 5, ln 30-46), X a number of rules based on said derived relationship( the optimizer contains rules 330,

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341, 351 that it uses to makes such optimizations 330,340 and recommendations 350. For example, If A1=yes, and S1 =200 MHz, or Mi=90%, then make suggestion and change the graphic card settings that control "synchronization on vertical refresh", col 7, ln 25-35/ if A and B are true and C is false then make suggestion and take action, col 7, ln 30-35).

4. Dumarot does not teach X as the term "generating" for a numbers of rules. However, Dumarot teaches construct rules, col 10, ln 55-60/ the rules may consist of a set o conditionals and Boolean operations, col 7, ln 30-35/ the rules may be segregate into different files, col 7, ln 35-40/ rules as new information is provided, col 8,ln 14-20). It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Dumarot because Dumarot's construct rules/the rules may consist of a set o conditionals and Boolean operations / the rules may be segregate into different files/ rules as new information is provided would increase the apparent speed of a computer and to enhance the performance of the workstation in running the program's system.

5. As to claim 2, Dumarot teaches at least in part on a performance goal (optimizing software, col 3, ln 10-45/ optimizing system performance, col 4, ln 56-67col 5, ln 1-25/ col 6, ln 7-55/ col 7, ln 1-67/ col 8, ln 8-57).

6. As to claim 3, Dumarot teaches part on current values of said system variable (a set of control parameters A1, A2, col 4, ln 56-67/col 5, ln 1-25/ col 7, ln 1-67/ color 570, col 8, ln 7-60), recommend (recommendation 350, col 7, ln 1-67).

7. As to claim 5, Dumarot teaches acquired data (values M1, M2.. is obtained, col 5, ln 1-25).

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8. **As to claim 6**, Dumarot teaches data over time (specific increments of time, col 5, ln 1025), gathering said data (the information gathered, col 7, ln 1-67), logging/ logged data (threshold distance/ (X1, X2), col 9, ln 1-40), relationship (X1, Y1, col 9, ln 1-40).
9. **As to claim 7**, Dumarot teaches discrete points in time (different points in time, col 7, ln 1-67).
10. **As to claim 8**, Dumarot teaches an event (system behavior, col 5, ln 1-25).
11. **As to claim 9**, Dumarot teaches performance of metric data (performance, col 5, ln 1-25).
12. **As to claim 10**, Dumarot teaches identifying a number of applications (a particular unique identifier 410 for a software application, col 4, ln 56-67/ col 5, ln 1-25).
13. **As to claim 11**, Dumarot teaches variable (parameter, A1, A2., col 4, ln 56-67) , the performance of said computer (increasing the apparent speed of computer, col 3, ln 9-15).
14. **As to claim 12**, it is an apparatus claim of claim 1; therefore, it is rejected for the same reason as claim 1 above.
15. **As to claim 13**, Dumarot teaches performance metrics (performance, col 5, ln 1-25).
16. **Claims 14, 15, 17-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Dumarot et al (US. Patent 6,059,842) in view of Seiffert et al (US. 5,729,472).
17. **As to claim 14**, Dumarot teaches enhancing performance (optimizing software, col 3, ln 10-45/ optimizing system performance, col 4, ln 56-67 col 5, ln 1-25/ col 6, ln 7-55/ col 7, ln 1-67/ col 8, ln 8-57), program code (performs operations/ program, col 5, ln 1-25), computer system (computer, col 3, ln 10-45), system variable (a set of control parameters A1, A2, col 4, ln

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56-67/col 5, ln 1-25/ col 7, ln 1-67/ color 570, col 8, ln 7-60), the performance (dynamic data 460/ M1, M2, col 5, ln 1-46/ col 7, ln 1-67), X a number of rules (rules 331, 341, 351, col 7, ln 1-67, rule icons 540, col 8, ln 1-67), relationships( It A1=yes, and S1=200 or M1-90%, col 7, ln 1-67).

18. Dumarot does not explicit teach X as the term generating for a number of rules. However, Seiffert teaches generating (defining a set of watchdog rules, col 12, ln 30-67).

19. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Dumarot and Seiffert because Seiffert's "defining a set of watchdog rule" would improves performance of the computer system.

20. As to claim 15, Dumarot teaches performance goal (performance, col 5, ln 1-25).

21. As to claim 17, it is an apparatus claim of claim 5; therefore, it is rejected for the same reason as claim 5 above.

22. As to claim 18, Dumarot teaches a configuration file (amount of memory, col 5, ln 1-25).

23. As to claim 19, Dumarot teaches monitoring (monitor program 137, col 5, ln 1-67).

24. As to claims 20-26, they are apparatus claims of claims 9-10, 1, 5, 6; therefore, they are rejected for the same reasons as claims 9-10, 1, 5, 6 above.

25. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dumarot et al (US. Patent 6,059,842) in view of Mihata (design rule verifying system).

26. As to claim 4, Dumarot does not teach iterative. However, Mihata teaches iterative (the contradictory design rule are repeated (page 1).

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27. It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Dumarot and Mihata because Mihata's iterative would improves the efficiency of a correcting work.

28. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dumarot et al (US. Patent 6,059,842) in view of Seiffert et al (US. 5,729,472) and further in view of Mihata (design rule verifying system).

29. As to claim 16, Dumarot and Seiffert do not teach iterative. However, Mihata teaches iterative (the contradictory design rule are repeated , page 1).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to combine the teaching of Dumarot , Seiffert and Mihata because Mihata's iterative would improves the efficiency of a correcting work.

#### **Response to the argument**

30. Applicant amendment filed on 11/25/2003 has been considered but they are not persuasive.

In the remarks, applicant argued in substance (1) " No teaching or suggestion of generating these rules based on derived relationships".

31. Examiner respectfully traversed Applicant' s remarks:

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As to the point (1), Dumarot teaches generating these rules based on derived relationships “construct rules, col 10, ln 55-60/ the rules may consist of a set o conditionals and Boolean operations, col 7, ln 30-35/ the rules may be segregate into different files, col 7, ln 35-40/ rules as new information is provided”. These rules must be generated in order to have the relationships “If A1 =yes, and S1= 200, or M1 = 90%, then make the suggestion and change the graphic card setting” The rules was made based on the relationships between A1 (Parameter A1 may control quality of engineering application), S1 (S1 contain information quality of computer system such as the particular operation system, amount of memory...) and suggestion (suggestion have various condition “ disk space is low ... improve performance). A1, S1, M1 and S (suggestion) are monitored system avaibles and performance of computer system as cited in the claim limitations.

25.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LeChi Truong whose telephone number is (703) 305 5312. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on 703-305-9678. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIP. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIP system, contact the Electronic Business Center (EBC) at 866-217-9197(toll-free).

LeChi Truong

April 19, 2004



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